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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

Abdi Nazemian, et al.,

Plaintiffs,

vs.

NVIDIA Corporation,

Defendant.

Master File Case No. 4:24-cv-01454-JST (SK)
Consolidated with Case No. 4:24-cv-02655-JST (SK)

PLAINTIFFS' RESPONSE AND OPPOSITION TO DEFENDANT'S ADMINISTRATIVE MOTION TO FILE UNDER SEAL MATERIAL IN PLAINTIFFS' RESPONSE AND OPPOSITION TO NVIDIA'S STATEMENT IN RESPONSE TO PLAINTIFFS' ADMINISTRATIVE MOTION TO CONSIDER WHETHER NVIDIA'S MATERIAL SHOULD BE FILED UNDER SEAL, DKT. 203

Pursuant to Civil Local Rules 7-11 and 79-5(f)(4) and the Court's Standing Order regarding Civil Cases, Plaintiffs respectfully submit this response to Defendant's administrative motion to file under seal material in Plaintiffs' response and opposition to NVIDIA's statement in response to Plaintiffs' administrative motion to consider whether NVIDIA's material should be filed under seal, Dkt. 203.

On October 17th, Plaintiffs filed an administrative motion asking the court to consider whether information designated as confidential by NVIDIA in Plaintiffs' Motion to Modify the Scheduling Order and for Leave to File First Amended Consolidated Complaint ("the Motion") should be sealed. Dkt. 192. NVIDIA filed a broad sealing request, Dkt. 195, and Plaintiffs responded. Dkt. 198 (redacted); Dkt. 200 (unredacted). NVIDIA then filed an administrative motion to seal Plaintiffs' response. Dkt. 203.

This sealing spiral should end with Plaintiffs' motion to amend the complaint. The information in Plaintiffs' response, Dkt. 198, which NVIDIA argues should be sealed, is nothing more than a broad description of NVIDIA's business, the name of a so-called "business partner," and a description of the *publicly available information* the "business partner" provides. NVIDIA's request to seal Plaintiffs' response is subject to the good cause standard, which "requires a 'particularized showing' that can 'warrant preserving the secrecy of sealed discovery material attached to non-dispositive motions.'" *Dunbar v. Google, Inc.*, 2012 WL 6202719, at *3 (N.D. Cal. Dec. 12, 2012) (quoting *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006)). But NVIDIA's motion makes no particularized claim about why the information in Plaintiffs' response should be sealed. As a result, nothing in NVIDIA's motion should overcome the "strong presumption in favor of access to court records." *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003).

NVIDIA uses its motion to seal Plaintiffs' response as a reply brief, adding arguments as to why the Court should seal attachments to Plaintiffs' original Motion. *See, e.g.*, Dkt. 203 at 2 (arguing that "Exhibit F" contains confidential information). It adds new legal arguments about when courts seal confidential business information, Dkt. 203 at 1, and reasserts the (conclusory) point that Exhibit F "shows NVIDIA's research priorities," including "how and where it looks for potential training data." Dkt. 203 at 2. As an example: NVIDIA's motion argues that its "request for information on a potential research collaboration" reveals "strategic considerations and priorities for conducting internal research intended to inform future technical development strategy." *Id.* NVIDIA's claim that its relationship with

a shady business partner is a part of its "technical development strategy" is telling—but it does not explain with any particularity why that information is sensitive or confidential beyond simply being embarrassing for NVIDIA.[1]

Exhibit F should not be sealed for the reasons outlined in Plaintiffs' response, Dkt. 198. Most importantly, NVIDIA's relationship with a shady business partner—while unseemly—is not the type of specific and proprietary business information that courts typically seal. *See* Dkt. 198 at 1 (making this argument); *Kamakana*, 447 F.3d at 1179 ("The mere fact that the production of records may lead to a litigant's embarrassment, incrimination, or exposure to further litigation will not, without more, compel the court to seal its records."); *see also Contour IP Holding, LLC v. GoPro, Inc.*, 2020 WL 10147135, at *2 (N.D. Cal. Oct. 26, 2020) (sealing information that related to "confidential sales figures, companies' positions in the market," and specific corporate decisions, but *not* sealing information that was merely "kept confidential or relates to the parties' business affairs"); *Keirsey v. eBay, Inc*, 2013 WL 5609318, at *3 (N.D. Cal. Oct. 11, 2013) (granting motion to seal only "the specific numbers of users and the amounts of optional fees they paid").

Second, much of the information that NVIDIA seeks to redact—including, crucially, the actual data that NVIDIA wanted to access—is public. See Dkt. 198 at 3 (noting that the information provided by NVIDIA's so-called "business partner" was public); *Bartz v. Anthropic*, No. 3:24- cv-05417 (N.D. Cal. May 15, 2025), Dkt. 198 at 6-8 (denying Anthropic's attempt to seal well-known information about LLMs and words relating to Anthropic's scanning of datasets for AI development). It is common knowledge that LLMs are trained on large bodies of text. For example, NVIDIA itself has previously disclosed its use of large corpuses of training data containing books—like the pirated books in Books3. *See* Dkt. 1 at ¶ 23 (NVIDIA publicly disclosed that NeMo Megatron was trained on dataset including Books3). The only unique piece of information that NVIDIA seeks to redact is exactly which source NVIDIA sought the information from—a detail that would not cause NVIDIA competitive harm if made public, because looking for large internet data sources is *already a common business practice* among AI companies. *See* Dkt. 198 at 2 (citing cases noting that other AI companies used the same business

[1] Plaintiffs deliberately avoid including the name of the source in this Response to avoid triggering yet another round of sealing motions.

partner); Dkt. 200 at 2 (unredacted version).

NVIDIA argues that courts in this district "regularly find good cause to seal confidential business information, technical documents, and internal business processes . . . ." Dkt. 203 at 1–2. But the cases they cite for this premise deal with *trade secrets*—not mere collaboration with shady "business partners." See *Blockchain Innovation, LLC v. Franklin Res., Inc.*, 2024 WL 4455492, at *7 (N.D. Cal. Oct. 8, 2024) (sealing information that "remains protected and out of the public eye to prevent competitors from gaining insight to or the benefit of Franklin's carefully considered business strategies"); *Edwards Lifesciences Corp. v. Meril Life Sciences Pvt. Ltd.*, 2021 WL 1312748, at *5 (N.D. Cal. Apr. 8, 2021) (sealing "non-public clinical data and analysis and . . . regulatory strategies").

One case from NVIDIA's brief illustrates the point. In *Fed. Trade Comm'n v. Qualcomm Inc.*, 2018 WL 6575838, at *2 (N.D. Cal. Dec. 13, 2018), Qualcomm moved to seal a large amount of business-related information. The Court agreed that "competitively sensitive business information" should be sealed but declined to seal the name of Qualcomm's business project or a third party's assessment that certain conclusions were "in line with management's assessment." *Id.* at *3. Similarly, here, there is no reason to redact any of the information derived from Exhibit F, or Exhibit F itself, especially the name of NVIDIA's questionable business partner and or the *public* information that business partner provided.

NVIDIA argues that the information contained in Plaintiffs' response "shows NVIDIA's research priorities, including what it prioritizes in terms of training data, how and where it looks for potential training data, its deliberation regarding whether to use certain training data, and its internal strategies for conducting research regarding LLMs to inform future development." Dkt. 203 at 2 (citations omitted). But the information contained in Plaintiffs' response is simply more of what is already alleged in the operative complaint based on NVIDIA's own public disclosures. *See* Dkt. 1 at ¶ 18 (explaining that LLMs are trained by copying enormous amounts of text); Dkt. 1 at ¶¶ 23–27 (alleging that one of NVIDIA's LLMs was trained on a dataset that included a massive amount of pirated books).

Perhaps recognizing the absurdity of its argument to seal, NVIDIA goes on to argue that "public disclosure of *even the source* from which NVIDIA sought this information reveals NVIDIA's strategic evaluation of potential training data for internal research regarding its models and is confidential." Dkt. 203 at 3 (emphasis added). Not so. Disclosing the source from which NVIDIA sought information says

nothing about why or how NVIDIA decided to pursue that information, or how NVIDIA makes strategic decisions. It does not reveal NVIDIA's proprietary research strategies in any way—certainly not beyond what is already known from the public complaint.

Again, NVIDIA's own cases contradict its argument. NVIDIA cites *Apex.AI, Inc. v. Langmead*, 2023 WL 4157629, at *2 (N.D. Cal. June 23, 2023), in which the court sealed information about Apex.AI's business partners, customers, and plans for specific software products. Nothing in Plaintiffs' Response discloses anything even remotely like NVIDIA's customers, or business plans for specific products. *See also Carbon Autonomous Robotic Sys. Inc. v. Laudando & Assocs. LLC*, 2025 WL 1678313, at *3 (E.D. Cal. June 13, 2025) (sealing information about plaintiff's *customer* when disclosure would cause competitive harm to plaintiff). Here, Plaintiffs' response discloses only that NVIDIA used a publicly available source that other AI companies also frequently use.

None of this information is confidential, and it should not be sealed.

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Respectfully submitted,

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